

Cabarrus County Government – Planning and Development



**Planning and Zoning Commission Minutes
January 13, 2026**

Mr. Michael Bywaletz, Chair, called the meeting to order at 6:30 p.m. Members present, in addition to the Chair, were Mr. Adam Dagenhart, Mr. Chris Pinto, Mr. Charles Paxton, Mr. Stephen Wise, Ms. Holly Edwards, Ms. Ingrid Nurse and Mr. Keith Conrade. Attending from the Planning Department were, Mr. Phil Collins, Planning Supervisor, Ms. Susie Morris, Planning & Development Director, and Ms. Lisa Johnson, Clerk to the Commission. Also, in attendance was Mr. Douglas Hall, County Attorney. Absent from the meeting was Mr. Mohammed Idlibi, Ms. Heather James and Mr. Gary Eldridge.

Call to Order

Mr. Michael Bywaletz, Chair, called the meeting to order at 6:30 p.m.

Roll Call

Ms. Lisa Johnson, Clerk to the Commission, called the roll.

The Chair proceeded to read the Rules of Procedure:

Rules of Procedure

1. The Cabarrus County planning staff person(s) shall first present the staff report and answer questions from the Commission. There will be no time limit on this presentation.
2. The Applicant or Appellant may make a presentation to the Board (optional) and will then answer questions from the Commission. There will be a 15-minute time limit on the presentation if the Applicant or Appellant chooses to make a formal presentation. There will be no time limit on questions from the Board following the presentation.

3. When the Board is ready to proceed, the proponents (those speaking generally in favor of the case) will have a total of 15 minutes to speak or present evidence in support of their position. The 15-minute time limit does not include questions directed to the proponents by the Commission.
4. After the proponents finish, the opponents (those speaking generally against the case) will have a total of 15 minutes to speak or present evidence in support of their position. The 15-minute time limit does not include questions directed to the opponents by the Commission.
5. Each side will then have 3 minutes for rebuttal, with the proponents going first. Again, questions directed to the speaker will not count against the time limit. This will conclude the public hearing portion of the meeting, and the Commission will proceed to deliberation.
6. Each side is strongly encouraged to use a spokesperson to present the positions commonly held by each. Each side is also strongly encouraged to organize their speakers and presentations to ensure that all persons wanting to speak will have time to do so.
7. If a speaker has questions of a person on the other side, such questions shall be addressed to the Commission members to be redirected to the person to be asked. There will be no direct questioning of one speaker by another except through the Commission.
8. Public demonstrations of support for a speaker's comments should be limited to clapping. Any other type of audible support shall be out of order and subject the offender to being removed from the building. Anyone speaking out of order shall likewise be subject to removal.
9. These rules are designed to have a full and fair hearing that is orderly and expeditious and avoid unnecessarily repetitious presentations.

Mr. Brent Rockett **MOTIONED, SECOND** by Mr. Michael Bywaletz to **APPROVE** the Rules of Procedure. The vote was unanimous to **APPROVE**.

Mr. Michael Bywaletz, Chair, proceeded to swear in members of the audience wishing to speak.

The Chair asked if there were any board members that had any conflicts with the upcoming case. There being none, the Chair proceeded.

Old Business Board of Adjustment

Petition VARN2025-00005-Variance request for relief from the setback requirements from County Line and the dimensional requirements of the AO district. Gary and Kathy Almond are the applicants/owners. The address associated with the subject property is 3077 Pickens Road (PIN: 5589-95-0742).

The Chair called on Mr. Phil Collins, Senior Planner, to speak.

Mr. Phil Collins said, just as a reminder this case was originally presented at the October 14, 2025 meeting. The case was tabled so that the applicant could gather more information from the Cabarrus Health Alliance. They were originally scheduled to come back in December but needed more time.

Mr. Brian Hayes, attorney for the applicant, said, per the request, we did update a couple things. There is an updated site plan that lays out the septic system, as prepared by Soil & Forestry. Mr. Dagenhart was concerned about the placement of the well in relation to the septic system. From the septic layout, I've confirmed with Mr. Wendell Overby (Soil & Forestry Services of the Carolinas, PA) that it is consistent with code. It is approximately 150 feet from the septic system. (Showing on map) The one to the immediate right of the structure is the primary system. This area is going to be the repair field. In speaking with Mr. Overby, they did multiple borings on the site to get into an area that the Almonds were generally interested in. The proposed plan is essentially the only area that they are certain would work. While it might be possible to eventually find other spaces, this is the most logical space.

In almost any situation, with enough money you could eventually build a system that would involve pumping that may work. As the land is situated, these seem to be the most likely site. Mr. Overby did point out that Mount Pleasant is an area of the County that is generally known for being challenging from a septic standpoint. It was also requested that we present an application to Cabarrus Health Alliance. That has been presented and granted subject to approval of the board.

I remember there were also questions as to the lines and the green sections. We surmised that the numbers one through nine indicate areas that they did "test digs". The other lines are just part of where the trenches would be for the system. The important part on the numbers are the colors relating to the colored flags that were laid out onsite as part of the planned construction.

They reference contour lines. There's another set of numbers here, for example, 32, 36, 48 and 52 feet is the length of the trench, as it would be constructed. As stated, this is within 28 feet of the setback. We had previously discussed that the Almonds own approximately 38 acres in Stanly County, which adjoins this property. This is their tract in Cabarrus County, which is a little over 39 acres. The Stanly County tract runs parallel to that and total acreage for the tract is approximately 77 acres.

One of the primary reasons of trying to construct within Cabarrus County is that the construction of the septic system is placed at an area that would place the house in a two-foot setback. The reason for construction in Cabarrus versus Stanly County is that there is no access to the property from the Stanly County side. Accessing the property from Stanly County public services would require that emergency services drive around the property to come in from the Cabarrus County side. Based upon

health concerns for Mr. Almond and accessibility for general emergency services, the Cabarrus County side is the most efficient place for them to look at constructing. Let me know what questions you have this evening.

Mr. Michael Bywaletz, Chair, said, I recall that in one of the initial exhibits the house was sitting on the property lines and then sliding onto the property, which actually shifted the reserve field with it. We asked what the actual limits for the septic fields. Mr. Dagenhart had asked if there was any other consideration for placement of the house.

Mr. Brian Hayes said, yes, it appears that this area has good soil and coming back toward Stanly County, it continues to be good soil. Beyond where they are now, it becomes unusable based upon soil conditions. Mr. Overby has indicated that there may be a place where it becomes usable, but where they are now seems to be the limits.

Mr. Bywaletz said, one of the rectangles in another exhibit that indicates where the borings were taken between number eight and four to the north, doesn't have a number on it. Was it determined that the soil was bad or why is there not a label?

Mr. Brian Hayes said, I don't know. I don't know if he simply omitted it.

Mr. Michael Bywaletz said, it was just unique that when the house shifted, the reserve field shifted with it. I didn't know if the extensive system that would be put in for the primary could shift also. If you're shifting the secondary, why isn't the primary also shifting?

Mr. Brian Hayes said, one of the factors in placing further into Stanly County is the fact that there is a pond that is toward that area. At some point, you become too close to that water.

Mr. Adam Dagenhart said, who made the determination that it's too close?

Mr. Brian Hayes said, Mr. Overby. Based upon the constraint, this is where a soil scientist placed the field.

Mr. Adam Dagenhart said, when I asked about flipping the house, you didn't do any additional soil evaluation?

Mr. Brian Hayes said, Mr. Overby did a number of variations. If we flip the house, it falls entirely out of Cabarrus County. Per the request, the plan has been approved by Cabarrus Health Alliance. Also, while this falls within the setbacks, the Almonds own all the property on the other side. This is not a situation in which there is another owner that could create a problem with building in Stanly County.

While the County has an interest in providing guidance and restrictions when pertinent to county services, this is privately-owned property. This doesn't impair county services in any way. This is a personal decision and the County's interest in this is limited to the purposes of the Zoning Ordinance.

Mr. Adam Dagenhart said, you're asking the board to approve a variance based upon a personal preference, not based upon a soil survey?

Mr. Brian Hayes said, that's not what I said. It's based upon a soil survey, but I wanted to remind the board that this is privately-owned property. This isn't a case where we should be asking Cabarrus County where they would like the house to be built. We're asking the County to permit a variance that varies from the established Zoning Ordinance. They have employed surveyors and soil scientists. Based on the layout of the land in the 39 acres in Cabarrus County, this is the most desired and logical spot. There was a previous residence straddling the County line. If they had rebuilt it instead of destroying it, we wouldn't be having this discussion. It would have been grandfathered in.

Mr. Adam Dagenhart said, they didn't do any more bore pit evaluations to the west of #8 and #7?

Mr. Brian Hayes said, there were multiple borings.

Mr. Adam Dagenhart said, you're telling us but you're not giving us any additional information. We're just going by your word.

Mr. Michael Bywaletz said, we're seeing septic lines laid out but the extent of the septic area itself. This is the area and the lines are laid in that area. We don't know where those limits actually are. You're saying this is where we want our septic field and these are the limits we're providing to the commission. We're not actually seeing what the limit is.

Mr. Brian Hayes said, per Mr. Overby, these are the practical plans.

Mr. Adam Dagenhart said, is Mr. Overby here?

Mr. Brian Hayes said, he is not here. We asked him but he wasn't available and indicated that he wouldn't be available.

Mr. Michael Bywaletz said, that's what I'm having a hard time with. I don't know what the limits are. They're just septic lines right now. There are no limits that say this is where it has to be; it's just here's what we're presenting to you.

Mr. Adam Dagenhart said, if there was soil evaluation where the proposed house was shown and the soil was good, I don't understand why you didn't just move the house up to the edge of where #7 and

#8 are, which is probably going to move it 70 feet from the County line. Then put the repair area parallel to the County line, then you don't need a variance.

Mr. Brian Hayes said, part of that relates to the elevation of the property.

Mr. Michael Bywaletz said, that is not something that's been presented. My hiccup is more with the limits that we can't even make an educated guess on.

Mr. Adam Dagenhart said, you really haven't shown us any new information other than putting some numbers on there. We asked for some additional information from your soil scientist and all we got were numbers and labeling.

Mr. Brian Hayes said, you asked to see it in relation to the site plan. You particularly expressed interest in knowing if the Cabarrus Health Alliance has the plan. Otherwise, it became a moot issue as far as the board was concerned.

Mr. Charles Paxton said, what have you done differently from the last time to this time?

Mr. Brian Hayes said, we presented the plan to Cabarrus Health Alliance and obtained their approval. As far as testing, there were various borings throughout the property. As indicated from Mr. Overby, this is the functional limit. There were "digs" going to west and this is based upon what they found.

Mr. Charles Paxton said, you took our comments to him and he said this is the most perfect plan I can come up with that solves your problem?

Mr. Brian Hayes said, yes. I spoke with him yesterday to confirm that understanding. His words exactly were "if you go much further out, it might become usable soil again."

Mr. Adam Dagenhart said, explain the comment that it might be usable in the future.

Mr. Brian Hayes said, eventually going to the road, but then we run into the pond issue.

Mr. Adam Dagenhart said, how far is the pond? Is it not on the survey?

Mr. Brian Hayes said, no, as shown on the site plan the house is here and the pond is here. (Showing on map).

Mr. Adam Dagenhart said, what are the concerns with it being closer to the pond?

Mr. Brian Hayes said, putting the drainage field closer to the pond?

Mr. Adam Dagenhart said, yes, just shifting the house 28 feet.

Mr. Brian Hayes said, it would affect water quality and fish and wildlife.

Mr. Adam Dagenhart said, that looks like a dry pond to me.

Mr. Brian Hayes said, it is there; that's not a satellite image from real time.

Mr. Brian Hayes said, this is the Almonds' son.

Mr. Jonathan Almond, of 3055 Pickens Road, Mount Pleasant, NC 28124 proceeded to speak.

Mr. Jonathan Almond said, the pond is dry at this time. As to the question of moving the home 28 feet, it is the proposed repair area that prevents just shifting the home. The only place it could move with the proposed septic lines where they lay on the permit, is into Stanly County. As to the location they have selected for the home to be placed, it's not only due to the lay of land. In addition, there are several buildings there. There's a barn to the southwest of the proposed home site and there's a shop to the northeast that is fully constructed. Moving the home 50 to 75 feet to get it to the other side of the septic lines would put it quite far from the other outbuildings. It would be very much in their advantage to be within reasonable proximity to their outbuildings. That's the reason for choosing to try to stay near the end of the existing driveway, in addition to not having to construct a new driveway.

(Showing on map). As per additional boring sites, I have a report that was just put up. The site in question is at the bottom of the page. Her fingertip is where the existing outbuildings are. The four furthest blue points to the left of the page indicate areas that were tested and had unsuitable soils. Those would be westerly of points 7 and 8.

Mr. Michael Bywaletz said, what do the blue dots indicate?

Mr. Jonathan Almond said, the blue dots represent soil potentially unsuitable for subsurface septic systems. I actually dug them myself with an excavator and the County found them unsuitable. The new, improved septic plan does have a number associated with each green box. I wasn't able to see the one that was referenced earlier that didn't have a number. Hopefully, I helped clarify the decision to choose the location on the property.

Mr. Michael Bywaletz said, are the red dots unsuitable and the blue dots are potentially unsuitable?

Mr. Jonathan Almond said, the red and white dots are potentially suitable. The blue dots are unsuitable.

Ms. Holly Edwards said, is this your only site plan and is this what was presented to environmental services for a septic permit? What is the orientation of the driveway? Normally, they want the well located there. I would have a hard time being okay with something that doesn't show that it meets building code.

Mr. Brian Hayes said, the well is there.

Mr. Adam Dagenhart said, the well is in Stanly County.

Ms. Holly Edwards said, are you crossing over two counties for infrastructure? The well is on the Stanly County side and everything else is on the Cabarrus side?

Mr. Jonathan Almond said, the only thing that would be in Stanly County would be the well.

Ms. Holly Edwards said, when you're pulling a permit, 2 feet is a little tough. I'm a builder and you're digging out footers and that kind of thing. I would even think that would get into some insurance issues. This could get so convoluted by not having all of your building staging on one area of one county. You would have to have some type of access from Stanly County.

Mr. Dagenhart said, how is Stanly County building standards going to inspect your plumbing inspections when it's in another county?

Mr. Jonathan Almond said, the only plumbing connection was the well, which was installed and inspected by Stanly County. The septic plumbing would be 100 percent in Cabarrus County. I'm currently building quite close to the County line, around 35 feet. My driveway loops around Stanly County and we're constantly in both counties with construction equipment. My shop is in Stanly County, which we are using for various tasks for the building. The lender, contractor, County personnel, etc. haven't had anything to say about that.

Ms. Holly Edwards said, did you say you were 35 feet from the County line? That's a huge difference from 2 feet.

Mr. Jonathan Almond said, you mentioned potential insurance issues and inspection issues.

Ms. Holly Edwards said, I don't mean on a permanent basis. During construction you have to provide a certificate showing where you're staging materials and equipment.

Mr. Jonathan Almond said, we are in both counties for the construction process.

Ms. Holly Edwards said, you don't have a permit from Stanly County to allow you to be on that piece of property. You're being permitted on the Cabarrus County side. You're going to pull a well certification permit from Stanly County.

Mr. Jonathan Almond, all of mine is 100 percent in Cabarrus County. I have my own separate well and homesite.

Ms. Holly Edwards said, where is the well that's going to service the house?

Mr. Jonathan Almond said, their house or my house?

Ms. Holly Edwards said, their house.

Mr. Adam Dagenhart said, it's on page 90 on the soil survey. You stated at the last meeting that you couldn't have the septic in Stanly County and the building in Cabarrus County. How are you able to put the well in Stanly County and the house in Cabarrus?

Mr. Jonathan Almond said, I can't answer that because I'm not in the Construction Standards Department.

Mr. Adam Dagenhart said, does Stanly County know the well is for a house in Cabarrus County? Does Cabarrus County know the well is in Stanly County?

Mr. Jonathan Almond said, yes, Cabarrus County approved the well that shows the house is in Cabarrus County. They are the entity that permits the well to be drilled.

Mr. Adam Dagenhart said, I'm trying to understand because your presentation last time was that you couldn't have the building in Cabarrus County and the septic in Stanly County. You said you had an approved septic permit in Stanly County but you wanted to build the house in Cabarrus County. If you do the well, why can't you do the septic?

Mr. Jonathan Almond said, that's a very good question. We would love to be able to, but that is Stanly County and Cabarrus County's position.

Mr. Adam Dagenhart said, Stanly County told you that you can't have septic in their county to serve Cabarrus County?

Mr. Jonathan Almond said, correct. We've been told by both counties that a home and the septic system have to be within the same county.

Mr. Adam Dagenhart said, let me clarify the statement about flipping the house. Nobody is saying to put the house on the other side of the repair area. Take the repair area and the house and flip them. That was the direction you were given to explore, not move it a hundred feet on the other side. Put the house where the repair area is and put the septic where the proposed house is. You may have to do some orientation with the septic field but it should fit. You can always make a septic line longer.

Mr. Jonathan Almond said, there is a graded pad with an existing structure within the footprint of the proposed home.

Mr. Adam Dagenhart said, can we go back to the aerial?

Mr. Jonathan Almond said, that is within where the proposed homesite would be.

Mr. Adam Dagenhart said, is that an existing slab for the previous home?

Mr. Jonathan Almond said, no, it's not a slab, it's compacted gravel. From my understanding, soil for septic systems has to be undisturbed soil. If it has been graded and compacted recently, I surmise that it wouldn't be suitable.

Mr. Michael Bywaletz said, I believe we had this problem last time too, where we could not correlate the drawing with the aerial. Particularly the driveway doesn't look like that driveway on the aerial.

Mr. Jonathan Almond said, it does go from the metal barn to the far left of the photo.

Mr. Adam Dagenhart said, you all made the decision to start compacting without a building permit and a septic permit?

Mr. Jonathan Almond said, no. This was not for a home; this was for a shelter that was built to store an RV.

Mr. Adam Dagenhart said, it's going to move, correct?

Mr. Jonathan Almond said, it can move.

Mr. Adam Dagenhart said, can you point to where the house is going to go on the aerial?

Mr. Brian Hayes said, the house will be in this same area where the existing shed structure is (showing on map).

Mr. Jonathan Almond said, if you see the blue icon, northeast to the end of the shadow is what is shown as the proposed home site on the line drawings.

Ms. Susie Morris, Planning and Development Director, said, I think where the difficulty is coming from is the larger building that is reflected on the survey. The smaller shed that crosses the County line, you can see on the aerial. Ultimately, the carport isn't shown on the survey. That area would then come down because that is where the house would go. They're using part of the driveway and part of the pad underneath the RV. The problem is that the surveyor didn't reflect on that and didn't say that it was going to be coming down. The septic field would be to the north and the east of where that building currently sits.

Ms. Adam Dagenhart said, is it just short of that grove of trees?

Mr. Jonathan Almond said, the primary area is directly north of the photo as shown. The repair area is directly in front. That is presently agricultural. There's a barn, driveway and a large ditch; there is really no space for moving south.

Mr. Brian Hayes said, the carport was built before recognition that there was going to be a problem.

Mr. Adam Dagenhart said, that has to meet the setbacks going forward, wherever it ends up. Do you have an actual permit from the Cabarrus Health Alliance?

Mr. Jonathan Almond said, yes.

Mr. Adam Dagenhart said, is it conventional septic or chambers?

Mr. Jonathan Almond said, chambers.

Ms. Susie Morris said, it is our understanding that there is a statute that states if a soil scientist says that this type of septic system will work here, the Cabarrus Health Alliance is obligated to approve it. If this study was submitted and that is the location of where it is going to be, the Health Alliance is obligated to approve it. As far as a well, I don't know how that particular side of it operates. So, if that is what was presented and they had the study, then they are obligated to approve it.

Mr. Brent Rockett said, but that doesn't mean there aren't other areas on the site that could have been suitable and could have been approved.

Mr. Adam Dagenhart said, as long as it meets the standards, they're going to approve it. They are not going to look for a better solution.

Ms. Susie Morris said, whatever that soil scientist puts forth, is how that statute reads.

Ms. Holly Edwards said, they're not really concerned with the zoning or where the house sits; does that go to the other entity?

Ms. Susie Morris said, they are not, because a lot of times when it gets to the next step with us, it doesn't meet.

Mr. Jonathan Almond said, their original reason for going to the soil scientist was not being approved for a septic system by the County.

Mr. Adam Dagenhart said, you applied for a septic permit prior? Where was that location?

Mr. Jonathan Almond said, same area. I had them test other areas for my personal homesite as well. It was very disappointing that there were very few areas that were suitable. At best, we found one spot that was suitable for a low-pressure drip which was for a very expensive and heavy maintenance system. As far as a gravity-fed chamber or convention system, there aren't many options here. They did pursue it further by hiring a soil scientist. To my understanding, it's a liability concern with the County. They don't want to approve systems that are marginal, per the County inspector. If a soil scientist puts their name on it, the liability is then on that entity. It was an added expense, in order to get a suitable home site.

Ms. Holly Edwards said, the new well is in place? Is there a reason why you put it on that side and not the Cabarrus County side?

Mr. Adam Dagenhart said, just to clarify, NCDEQ requires 100 feet to be between a septic and a well.

Ms. Holly Edwards said, I'm pretty sure it's 75 feet. I'm just curious as to why it looks like it's a good distance into the Stanly County side. I don't know why this is a site plan that has everything in it. This actually looks like the proposed site straddles the line.

Mr. Jonathan Almond said, I believe the well was put in a place that doesn't have to be maintained. It was just out of convenience of property maintenance. No one at the Cabarrus Health Alliance proposed any issues with the location of the well. It never occurred to anyone that it might be an issue to have a well in Stanly County for a home that is in Cabarrus County. The septic plan was originally submitted with a new well request at the same time for a home in Cabarrus County. The County was aware that their plan was to build a home in Cabarrus County and it was never a question.

Ms. Holly Edwards said, you would need to have a permit to cross over or have something in place for them to connect to that well. You can't cross over into another county and do work there without having a permit in place.

Mr. Brian Hayes, the well is currently in use for various things at the property now.

Ms. Holly Edwards said, there is a supply line on the Cabarrus County side? Okay, I thought you had not made any connections whatsoever. The supply lines, electrical and everything have been trenched and it can be tapped into without crossing into Stanly County. That's a different story; that's what I needed to hear.

Mr. Jonathan Almond said, there's an old existing barn and a new shop that doesn't have power connected. I'm waiting to see how this works out before routing power. That was another reason for placing the house where it is, to be in close proximity to the other buildings in use.

Mr. Brian Hayes said, this is the area where the homestead was located.

Ms. Holly Edwards said, it's a very odd situation because Cabarrus County is going to need certification on the well. There's a lot of things that happen with new construction.

Mr. Adam Dagenhart said, can we go back to the soil survey? What is the Y5.1? Do the numbers after the letter mean nothing?

Mr. Brian Hayes said, I think that is related to contour lines. The 72, 52 and 48 are the length of the lines. The numbers in between were contour lines.

Mr. Adam Dagenhart said, why would it be odd numbers like that?

Mr. Micheal Bywaletz said, on the main system it goes from 8.0 to 8.1, 8.2 and then back to 8.2.

Mr. Adam Dagenhart said, if that's a topography line, that is really exact. Did he do those numbers or did the surveyor?

Mr. Brian Hayes said, this was done by the soil scientist entirely.

Mr. Adam Dagenhart said, is it a correct assumption from bore pits #1, 4 and 8 are higher in elevation than #7? On that end, does the topography go southwest?

Mr. Jonathan Almond said, I believe this is the highest and coming down is the lowest. This is a ridge so it starts to drop in this direction.

Mr. Adam Dagenhart said, are you pumping?

Mr. Jonathan Almond said, from what I understand he originally had a pump tank.

Mr. Adam Dagenhart said, if those are grade lines, you're going to have to pump. What I'm getting at is that this Board does not like people coming in here asking for a 90 percent reduction. We like to try to negotiate something. What if you took the repair field and rotated it? By rotating it parallel to the house, you can move it over and the house can move over some. It doesn't seem like anyone tried to mitigate anything on your end. If you can put your repair lines parallel to lines #8 and #7, I don't know why you can't gain additional length.

Mr. Jonathan Almond said, my suspicion would be that you wouldn't have the fall required.

Mr. Adam Dagenhart said, you do have the fall because it falls this way and that's the way it's set up now. I'm assuming he's going to dump into P5.7 if it's ever needed. If you take that repair field and rotate it 90 degrees and shift it against #7 and #8, we can come to a better distance to the County line as opposed to 2 feet. We might get 20 or 25 feet.

Ms. Holly Edwards said, do you have a set of plans? Is it not just a concept? Is it a basement house or crawlspace?

Mr. Gary Almond, applicant, said, crawlspace.

Mr. Adam Dagenhart said, do you have a copy of the permit? We will have to have a copy of the permit before you leave.

Ms. Holly Edwards said, does that permit show a plot plan layout? There should be a first page that's a summary of the permit.

Ms. Susie Morris said, the permit says, "proposed wastewater system type: accepted gravity: no". The second one says proposed wastewater system type: accepted pump, pump required: yes."

Mr. Adam Dagenhart said, it's on the bottom of the sheet. It says "Dist" for distribution.

Ms. Holly Edwards said, there's usually a summary for us to read. My point is that if the soil scientist did not give you the option to turn, that creates another problem. If he has allocated that the house

has to be in that position for that permit, that is where it has to go. If you change it, you have to get the soil scientist's permission.

Mr. Jonathan Almond said, I did find more information. The permit says, "trench spacing, 9 feet on center, 1,000-gallon tank size, 36-inch-wide trench.

Ms. Holly Edwards said, if he set the specifications for that area, you have to get his permission to move the house. If you say, I'm going to move it, he's going to have to do other stuff. What Mr. Dagenhart is offering would be a great opportunity, but your soil scientist is going to have to be the one to approve that.

Mr. Charles Paxton, who has more authority; someone on the board or a soil scientist? The soil scientist seems to have a higher knowledge on these issues.

Mr. Brian Hayes, as I said before, he said for the general location of the house, this is where the system needed to be placed.

Mr. Adam Dagenhart said, he may not have considered the potential suggestion. It doesn't appear that you have to do additional tests based on where pits #8, 7 and 4 are. Would you be receptive in talking to him to see if rotating it would make a difference?

Mr. Jonathan Almond said, I was looking at the numbers on his report. There is a page that shows all the colors of the flags. If you look at elevation, it's near the middle of the page. #1 is the highest and if you look at the plat map with those numbers, it circles around the property. I suspect that played into the orientation laid out by the soil scientist.

Mr. Adam Dagenhart said, the fact that you're pumping, elevation really shouldn't matter. As long as it drains once it reaches the field. Based on the information we have, it will drain once it gets to the point. The way he has designed the system is that you don't have to do anything with your interior plumbing. It comes out of the tank and goes down B6.7 and it goes past bore pit #4 and it manifolds off into the repair area.

Mr. Jonathan Almond said, that would be southwestern to #5 and southeastern to #6. I'm no expert on the lay of the lines. Being that Mr. Overby is not here, I can't answer for him.

Mr. Brian Hayes, this is the system he designed when presented with the situation. To Mr. Paxton's point, I would expect that was considered.

Mr. Jonathan Almond said, it is in his best interest to find something that is suitable for his customers so, I expect that's what he did.

Ms. Holly Edwards said, I don't think that's the question. At the end of the day, if he had rotated that house and placed the stuff to the left and the backside, you really don't have any impact to that problem. We can't tell you what to do; you're here to ask us something that you proposed. If he was not given any options to get it off the line and turn it, I don't know if you all asked him that. Usually, these guys ask what you want and you show them. They don't deviate and tell you that you can move it here it there. It would make things a lot easier for zoning. Septic is one thing but when you get to zoning, then you have another set of rules to abide by. I think he (Mr. Overby) should have been presented with whether this house could be flipped or not.

Mr. Jonathan Almond said, I didn't have the conversation with him but I know they are bound by gravity to layout lines in certain directions.

Mr. Adam Dagenhart said, that doesn't apply to the repair area because you were pumping, so gravity goes out the window.

Mr. Jonathan Almond said, it does apply because you pump it to the highest point on the field and it still has to use gravity to distribute through those lines.

Mr. Adam Dagenhart said, my question to the applicant would be, would you entertain that or would you like to take a vote now?

Ms. Kathy Almond, applicant, of PO Box 847, Mount Pleasant, NC 28124 proceeded to speak.

Ms. Kathy Almond said, our taxes were dropped because the land will not perc. It went from \$648,940 down to \$284,430. It was based on the land and the gravel/rocks. We had 45 acres that adjoined to this property and we sold it for \$34,900 because it wouldn't perc. All of this land is like this; we can't keep going. Gary (husband) has Parkinson's and he's had a heart attack. We moved to Mount Pleasant from Kannapolis to be near my son and my daughter-in-law, who is a nurse, to help with Gary. My other daughter is also a nurse and lives in Mount Pleasant. If we put the house here, we are still in Cabarrus County. Cabarrus County is going to get their taxes. It's not going to have anything to do with Stanly County. I do not see the issue. Gary and I talked to Wendell Overby and he said this is where it needs to go. I don't see why we have to keep coming back. My husband has gotten worse over this. I'm ashamed of having to go through this with this county. It is not fair to put people through this. I'm just appalled at everything we've gone through. I can't understand this so maybe someone can explain it.

Mr. Brent Rockett said, we didn't write the Standards. It's our job as a board to enforce them. I understand the difficulty and it sounds like it's been in the family's hands for a long period of time. Back at that time, that County line didn't matter what you did. Unfortunately, you're proposing to

construct a new home and the standards are different than they were then. I think we could argue all night whether that's right or wrong. Your argument could be that I can do whatever I want with my land and I would totally understand that. Again, that's not our rule, but it is our responsibility to find the most suitable solution. That's why we have suggested if it can be considered to reduce that encroachment. If there's an opportunity to do that, it makes us feel better about allowing that encroachment, if we know every consideration has been taken into account. If Mr. Overby were here and said there is nowhere else to put the house, we would be in a different situation right now. We don't have that information and that puts us in an awkward spot to make a decision based upon things we don't know. Our hope from last time was that we would have that response. Either here is the option or it can't move at all.

Ms. Kathy Almond said, he told me this is where it has to be.

Mr. Brent Rockett said, I'm not a part of those conversations so I can only assume, but his job is to find a septic system that works based on your preference of the placement of that house. If you had gone to him with the preference of that house being different and asked him to find a septic system that is 20 feet off the line, at that point, he could either say, yes, that is feasible or no, it's not. Our difficulty is that we don't have that answer and don't have him testifying to that. There are other factors that make sense. Logically, the location of the barn and access to electrical make perfect sense. We are trying to work from the Ordinance and these rules in trying to find the best solution. It's not uncommon to allow encroachment in special cases when all of these factors tell us there's no other option. With the information we have before us now, we don't have anything that definitively says this is the only option for the placement of this house.

Mr. Gary Almond said, if we turn it, which way is the house going to be facing?

Mr. Adam Dagenhart said, I can draw you a sketch.

Mr. Brent Rockett said, if you ran those lines the opposite way, the orientation of the house wouldn't necessarily have to move.

Mr. Jonathan Almond said, you said that if Mr. Overby were here and definitively made a statement, it would change things?

Mr. Brent Rockett said, I can only speak for me. Yes, if he was standing before us and definitively said there were no other options to build a residence on this property other than the one that was proposed, that would definitely make a difference. It doesn't guarantee anything.

Mr. Jonathan Almond said, if he were unable to attend in person, would a signed statement from him be beneficial?

Mr. Michael Bywaletz said, he can state all day long that this is the best location for the septic field based on where the house is. It's if we present him with the option to move the house 20 feet and he says no, the house has to be here.

Ms. Brent Rockett said, my question would be, can we move it 30 feet and he says no, but we can go in 10 feet instead of 28 feet.

Mr. Brian Hayes said, from my discussion with him, no. As I understood his statements, this is the extent. That is my understanding, but I don't have the degree.

Mr. Charles Paxton, I think he did in fact say that or else he would've made some changes when you told him that there was an issue.

Ms. Kathy Almond said, we went to speak with him the last time and he drew this out. I asked him if he would come with us and he said that we didn't need him to.

Mr. Adam Dagenhart said, to be clear with what I was talking about, running the lines this way and pushing over bore pits #7 and #8, because essentially, the line is already there. You can always make lines longer so that's not an issue.

Mr. Gary Almond said, it is an issue because of the soil.

Mr. Adam Dagenhart said, the four of you are not soil experts. That's why we need a soil scientist here. We're not saying we don't trust you, but this is something we need a soil scientist to confirm. Is this going to give us 20 feet? We don't know; that's what we're asking. Are you willing to explore that option or do you want us to make a motion and take a vote?

Ms. Kathy Almond said, if he says it can't be moved, will you approve it? I'm asking you, Mr. Dagenhart.

Mr. Adam Dagenhart said, I prefer him to be here. That would be the easiest solution.

Mr. Charles Paxton said, is he in the County?

Mr. Brian Hayes said, he's in the County. His office is near the Medicine Shoppe.

Mr. Adam Dagenhart said, I understand his statement that you don't need him here. However, you're not here for a septic permit; you're here for a zoning permit. He's dictating to us what we should or shouldn't approve. That's the problem. You proposed a plan and we don't know how much will work

or if he manipulated his plan. I don't know if you're going to get enough votes to get it to pass tonight. If it doesn't pass, you can't do anything unless you come back with something different.

Mr. Gary Almond said, when is the next meeting?

Mr. Adam Dagenhart said, next month, but that would mean you would have to turn this around by the end of the week, back to us for staff to review.

Mr. Jonathan Almond said, what if we can get the promise for Mr. Overby to attend before the end of the week?

Mr. Michael Bywaletz said, being here would help significantly. If we ask him if that is the limit for the septic and says he didn't go any further, that means it could shift some more.

Mr. Brent Rockett, I think I would get those answers from him before committing to the next meeting. If he just tells you that it could move but I'll have to do two more borings to figure out if this is suitable. You want to make sure that he has enough time to get that work done to justify what he needs to get to staff.

Mr. Charles Paxton said, what I don't want to see is that we ask them to go through this and Mr. Overby says this is it. We need to let them know that if he says this is it, I'm prepared to say let's vote.

Mr. Adam Dagenhart said, he either needs to be here or he needs to do a report. I'm not trying to be difficult, but no more hearsay; it needs to be official. Either he is present or he does a report that he can provide.

Mr. Charles Paxton said, do you think he would do that?

Ms. Kathy Almond said, he didn't need to be here. So, I don't know.

Mr. Adam Dagenhart said, he's only looking at it for a septic permit. He's not taking into consideration that they need to meet a zoning requirement. I'm not a soil scientist but I have an engineering background. If it was gravity, it would be one thing but you're pumping to that point and it falls that way.

Mr. Brent Rockett said, if he were to write something and attest to the fact that there was no other option. In my personal opinion, that would say what I needed. I think having him in person would make that a lot easier.

Mr. Brian Hayes said, any objection if we provisionally plan to appear on February 10th and request a continuance?

Mr. Adam Dagenhart said, we can continue it to the next meeting and if it's not ready we can table it like we did before.

Ms. Susie Morris said, I would like to ask one thing if you all agree to this, we need responsiveness as far as the process and how it's moving along. I would ask that be clearly communicated.

Mr. Adam Dagenhart said, so we don't have enough information from the applicant to make a determination on this case?

Ms. Susie Morris said, we have been pushing and staff has to contact to find out the status. If the board agrees to this, it needs to be understood that this needs to be a collaborative effort. It needs to be on the applicants and their representative to inform us of what is happening throughout this process.

Mr. Adam Dagenhart said, they need to let staff know that they're working towards the goal and they'll make the next meeting or they need to table it?

Ms. Susie Morris said, yes, they need to have the documents provided to us before that 2-week period.

Mr. Adam Dagenhart said, the question falls back to the applicant. Is that something you would like to pursue to continue to next month or do you want us to take a vote now? Based upon the discussion, I don't know if you're going to get an approval today.

Mr. Gary Almond said, how many members have to approve this?

Mr. Adam Dagenhart said, 8 out of 9.

Mr. Brian Hayes said, if it pleases the board, let's table this tentatively until February 10th. The problem with communication before was due to things being produced amongst the holidays, between Thanksgiving and Christmas.

Mr. Adam Dagenhart said, is January 30th sufficient for staff?

Mr. Susie Morris said, typically they have to have it in a month ahead of time. If this is the direction of the board, we can work up to 15 days before. We have to have everything finalized a week before we send it to you.

Mr. Adam Dagenhart said, that would be January 27th, 2 weeks before the meeting. The 23rd would be the previous Friday. We can continue it and then push it back if needed.

Mr. Brian Hayes said, I hope that by communicating with Mr. Overby tomorrow, he could give us an indication as to his availability.

Mr. Adam Dagenhart said, my understanding is that once the soil scientist presents a plan to the Cabarrus Health Alliance, they're going to approve it. I don't know if this board needs that, we just need him to say yes, that will plan will work and it has been massaged as much as we can .

Mr. Jonathan Almond said, if he revises his plan to suit the board, I'm sure when submitting to Cabarrus Health Alliance, it would be approved.

Mr. Adam Dagenhart said, just to be clear, you're going to take the drawing and approach Mr. Overby about if the repair field can be rotated in an attempt to pull the house further from the County line. If he says yes, we would need the information concerning how far the house would be off the County line.

Mr. Brian Hayes said, alternatively, if he says it cannot, just put that in a report?

Mr. Adam Dagenhart said, it would be beneficial if he could be here, but a report would be acceptable.

Mr. Brent Rockett said, either of those solutions would be advantageous versus where we sit today.

Mr. Brent Rockett **MOTIONED, SECOND** by Mr. Adam Dagenhart to **CONTINUE** until the February 10, 2026 meeting. The vote was unanimous to **CONTINUE**.

Petition VARN2025-00007- Variance request for relief from the restriction of the cul-de-sac length, the requirement to connect to adjacent properties and the road design standards. Pavel A Shchetinin is the applicant and King Carolina Homes LLC is the owner. The addresses associated with the subject property are 2575 Shiloh Church Road, 11295, 11280, 11250, 11220, and 11145 Aubrey Elena Court (PIN's: 4672-43-0198, 4672-33-0198).

Mr. Michael Bywaletz, Chair, asked the board if there were any conflicts of interest with the case. There being none, the Chair proceeded.

The Chair said, as you may recall the case was continued from the December 9, 2025 meeting. The applicant is seeking relief from the Cabarrus County Development Ordinance for multiple items related to creating a new major subdivision.

The Chair then reminded the board of the Application of the Variance Power:

A variance may only be allowed by the Commission in cases involving practical difficulties or unnecessary hardships when substantial evidence in the official record of the application supports all of the following findings:

1. Unnecessary hardship would result from the strict application of the Ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be created as a self-created hardship.
4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

All of these findings of fact shall be made in the indicated order by the Commission, which is not empowered to grant a variance without an affirmative finding of fact on all four categories above, each finding of fact shall be supported by substantial, material, and competent evidence in the record of the proceeding before the Commission.

The Commission may impose reasonable conditions upon the granting of any variance to ensure that the public health, safety and general welfare shall be protected and substantial justice done. Violation of such conditions shall be a violation of this Ordinance.

The Chair called on Mr. Phil Collins, Planning Supervisor, to provide any additional information about the case.

Mr. Phil Collins said, I just wanted to remind you of the sections of the Ordinance where the variance is being asked: Chapter 15, Section 15-9: Cul-de-sac Length, Appendix A: Requirements for Dead End and Stub Streets, and Chapter 15, Section 15-9: Connections to Adjacent Properties.

The board did vote and approve those variances for those sections of the Ordinance, which left three that have not yet been voted upon: Chapter 15, Section 15-8: Private Roads serving more than five lots, Appendix A: Rural Street Cross Section, and Appendix A: Pavement Schedule.

The Chair asked if there were any questions for staff. There being none, the Chair asked if there were any questions for the applicant.

Mr. Adam Dagenhart said, if I remember correctly, we gave some direction on trying to get with your engineer to see if you could manipulate or make some revisions, but it doesn't appear that you did.

Mr. Pavel Shchetinin, applicant, of 17332 River Race Drive, Huntersville, NC 28078, proceeded to speak.

Mr. Pavel Shchetinin said, one of the things that we didn't go over last time is that we were operating under the presumption that we weren't meeting any standards at all. I have a letter from Mr. Darden stating that we are in compliance with everything from NCDOT standards. The width, pavement schedule and shoulder size are actually more than the minimum standard. Meeting somewhere in the middle is what I wanted to present. I have Mr. Darden here as well to help us.

Mr. Charles Paxton said, what is your expertise?

Mr. John Darden of 307 Cayuga Drive, Suite A, Mooresville, NC 28117, proceeded to speak.

Mr. John Darden said, civil and structural engineering; I helped Pavel with a couple of his permits. I did some research on the Ordinance and I compared that versus NCDOT standards for a residential road. I outlined a summary regarding road width, part of the Appendix A section:

- *The road width is 20 feet, which is non-compliant with the 24' width required in Appendix A.*

However, looking at the standard cross section the subdivision manual, the minimum is 18 feet. He does meet the minimum for pavement width.

- *The shoulder widths/planting strips are less than 6 feet which is non-compliant with Appendix A, however, a drainage plan has been designed and approved by NCDEQ which incorporates the shoulder and ditch design.*

NCDOT gives more flexibility between 4 and 6 feet. He has 2 feet of a wider road to offset the shoulder width.

- *The asphalt pavement depth is non-compliant with Appendix A which requires a minimum of 8-inch stone base.*

However, this will meet or exceed 2.5 inches and meet the minimum 6-inch ABC stone.

- *The right-of-way width is 50 feet which is non-compliant with Appendix A, which requires a 60-foot right-of-way.*

However, this does comply with NCDOT which requires a minimum of 45 feet for a residential local road.

Mr. Michael Bywaletz said, you've presented a lot of information in reference to NCDOT. One of the things we asked last time is what would it take to bring it into compliance with the Cabarrus County Ordinance and what that hardship is.

Mr. Pavel Shchetinin said, as far as the totem pole, I'm assuming Cabarrus County standards are prevalent to NCDOT. If we were to turn the road over to NCDOT, how does that play out?

Mr. Brent Rockett said, because you're building in the County, NCDOT doesn't control the standards of the County. NCDOT has minimums and requirements and the County has their standards and requirements. As discussed earlier, there are some areas that are not meeting the standards for Cabarrus County. In that case, Cabarrus County supersedes NCDOT. Cabarrus County is not going to set minimums that are less than the NCDOT. The standards are greater than what NCDOT's are.

Mr. John Darden said, it's already there and meeting all the standards would require ripping up the road entirely.

Mr. Adam Dagenhart said, usually, you get approval before you start working.

Mr. Brent Rockett said, we understand you went from a minor to a major subdivision. If you had left it as a minor subdivision, we wouldn't be here tonight. The desire of the owner is to take it from a minor to a major subdivision. I'm sure there's financial reasons involved in why that is beneficial. The difficulty is that all of that infrastructure was put in place without understanding there were greater needs once you went to the major subdivision. I understand that is probably an honest mistake. It happens, but the reality is that it's still there and that's the difficulty we have.

Mr. Pavel Shchetinin said, why does the County have a different road standard as far as pavement and width to what the state's legislation is. On top of that, the County doesn't do any maintenance and it has nothing to do with zoning. Why are there such strict restrictions versus what the state has?

Mr. Adam Dagenhart said, regardless of whether it's in a municipality or if it's a private road, there are standards established and those are typically in the zoning standards. All jurisdictions have standards for the road regardless of its state, municipality or private. There are standards.

Mr. Pavel Shchetinin said, one of the things we talked about last time was offering something up to get closer to the standards. If we take what the NCDOT standards are and what the County standards are, we are in the middle.

Mr. Michael Bywaletz said, again, the idea was that you would come back with "this is what it would take to bring it up to standard and this is the hardship it has created." We have those four things that I read out in the beginning that we as a board have to state why we're justifying this to you. Number three says that the hardship did not result from actions taken by the applicant. These are actions that you took. We're not getting anything back from you except if we can meet halfway. We discussed last time that you go back to your engineer and see what it is going to take for him to re-design this to the standard and tell us this is what it is and the hardship it's going to create.

Mr. Brent Rockett said, if you determine that is not feasible for whatever reason, come back to us with the modifications that you can offer that are feasible. We talked through some options; we asked that you come back with something.

Mr. Pavel Shchetinin said, I didn't want this to come across as wasting your time. The fact that we were meeting some NCDOT standards was not brought up last time.

Mr. Charles Paxton said, in simple terms, you didn't do what we asked?

Mr. Pavel Shchetinin said, more or less. We do have room because I put in the base to accommodate a 22-foot-wide road. Our base allows us to expand it to 22 feet.

Mr. Adam Dagenhart said, it's not just that, it's also your pavement structure, right?

Mr. Pavel Shchetinin said, we would meet the pavement structure because we're doing another 2.5-inch lift.

Mr. John Darden said, if you have to meet that, you would have to rip up all the pavement.

Mr. Michael Bywaletz said, we're going to be here going back and forth and that is not going to happen tonight. As we asked the first time, come back with a plan that says this is what it would take. Because of this or that, this is the best we can do, it is what we need to see so that we can find a happy medium.

Mr. Adam Dagenhart said, do you have existing utilities that have been installed?

Mr. Pavel Shchetinin said, yes.

Mr. Adam Dagenhart said, we don't know their location or if pavement can go over them. We don't know their depth. You probably need to do an "as-built" of what's out there and overlay what the minimums are and what you can achieve in between.

Mr. Stephen Wise said, get some alternatives and options for us to look at.

Mr. Adam Dagenhart said, we got ahead of ourselves last time. We probably should have gone over each one of these and we would have concluded that he needs to come up with some options for us to consider. We need something to look at and it can't just be words. You need to show us the minimum and how close you can get to meeting it.

Mr. Charles Paxton said, why did the engineer come; just to discuss the NCDOT standards?

Mr. John Darden said, I was told this wasn't discussed yet and to show the compromise that we are meeting the NCDOT minimums.

Mr. Adam Dagenhart said, we're taking you at your word that is what is out there. Did NCDOT inspect it?

Mr. Pavel Shchetinin said, it's a private road, but they did inspect the entrance.

Mr. Adam Dagenhart said, if you want to do substandard based on the requirements, then you need to provide information based on what is actually there.

Mr. Pavel Shchetinin said, I think we have clear directions as to what to bring to the next meeting.

Mr. Michael Bywaletz said, we can continue this. Do you think you'll be ready for next month's meeting?

Mr. Adam Dagenhart said, do we need to move it to March? Another option to consider is to go back to a minor subdivision.

Mr. Pavel Shchetinin said, I can't; that's just not feasible.

Mr. Brent Rockett said, what changed from going to minor subdivision to a major division? If you initially designed this to be a minor subdivision, did you know then that the project wasn't feasible to remain a minor subdivision? Why didn't you plan to make it a major subdivision from the beginning? What changed that it had to be a major?

Mr. Pavel Shchetinin said, when we started this process, I expressed to the County that I did want to make it a major subdivision. I was made aware that in order to do a major subdivision it's a much longer process. We put together a minor subdivision to push it through and get it recorded so that we could start development. I tried to be clear and honest with the County to make sure the minor subdivision was going to translate well into the major subdivision. That way when we go to the go to the major subdivision, I'm meeting the requirements. It wasn't that we tried to sneak something through; it was clearly communicated. I was relying on staff to say this is okay for the minor but it is going to be a problem when you go to the major subdivision. Some of these things I didn't know and if I would've known, we would've worked to meet those standards.

Mr. Adam Dagenhart said, you and your professionals didn't look at the Ordinance and notice there was a section for minor and major? You just assumed they were the same standards?

Mr. Pavel Shchetinin said, no. This is my first development. At the very beginning, I only had a surveyor involved to survey and plat everything out. When I presented it to the County, we had prolonged and multiple conversations that this was going to go from a minor to a major subdivision. The reason we started a minor is that we could start construction and building a lot sooner than doing it as a major. This was clearly communicated to the County. I wanted to make sure when the County reviewed it would translate well into a major subdivision.

Mr. Adam Dagenhart said, you wouldn't look at a minor subdivision and apply major standards to it. You would only apply minor standards because that's what you submitted.

Mr. Pavel Shchetinin said, it was communicated to the County that this was going to translate into a major subdivision to look at it under the scrutiny of a major subdivision.

Mr. Adam Dagenhart said, you assumed because they didn't say anything that minor subdivision standards are the same as a major?

Mr. Pavel Shchetinin said, I explicitly asked whether everything was going to work for the major subdivision.

Mr. Adam Dagenhart said, that tells me that you did not look at the major subdivision requirements. You would have noticed the difference between pavement widths, pavement structure, right-of-way, shoulder, etc.

Mr. Mr. Pavel Shchetinin said, isn't that what staff are there for, to help with that?

Mr. Adam Dagenhart said, it's also your responsibility and your professional services responsibility. I'm sure you signed a document that says that you understand what the Zoning Ordinance says.

Mr. Pavel Shchetinin said, possibly. I can't attest to that. We just talked about this letter from the engineer and we completely skipped over that last time.

Mr. Adam Dagenhart said, we gave you a direction to go and you chose not to do it. There's no reason for us to keep going over this, we've given you a direction.

Mr. Pavel Shchetinin said, I'm not trying to go back and forth. I'm more than willing to sit down with John Darden and see what we can come up with. I was addressing Mr. Rockett's questions and that followed with more follow-up questions.

Mr. Michael Bywaletz said, in regard to continuing this, I understand you're having surgery on January 30th. I just read what you're having done; my daughter just had it done. That's three months on crutches. That's up to you in regard to attending. We'll make accommodations for you to be comfortable. When do you think you can be prepared to present back to staff?

Mr. Adam Dagenhart said, I don't think your engineer can do the February meeting. You would have two weeks to turn this around and get it back to staff.

Mr. John Darden said, do we want a complete "as-built" of the pavement structure to show that what I'm saying is truthful?

Mr. Michael Bywaletz said, it's looking at everything you're asking for a variance for. It's from the curves; it's from everything.

Mr. Adam Dagenhart said, basically, taking what is shown in the packet and adding the standard. Nothing we have shows the standard, correct?

Mr. Pavel Shchetinin said, I wasn't aware we needed that.

Mr. Adam Dagenhart said, you're before us asking for a major subdivision.

Mr. John Darden said, it's currently still platted as a minor for part of that road. I noticed there is a section in the Ordinance that allows an exemption on the roadway. You just have to be at a minimum of 20 feet and fire truck capacity.

Mr. Adam Dagenhart said, usually you ask for that up front and not after the fact.

Mr. John Darden said, would that exemption apply up to that road?

Ms. Susie Morris said, we already went through this because the engineer brought this up. This is a major subdivision. That exemption is in there for things that were in there before the Ordinance. He did a minor subdivision and installed the road. It has to meet the standards. Since Mr. Darden didn't have the benefit of being at the last meeting, they asked him to go back and figure out what he could and could not meet. If he is now saying that the road can be moved to 22 feet, it's not 20 feet but it is closer to 24 feet. That is what they asked him to have the engineer do; to go back and look at what you can and can't meet under the County's Ordinance. We had that conversation a long time ago when we had the pre-application meeting; we are back to that.

Mr. Adam Dagenhart said, we're looking at a March meeting? The date of the meeting is March 7th. That would mean you have a February 27th deadline.

Mr. Pavel Shchetinin said, just to be clear, we need to draw what we already have, overlay the County standards and give an option as to what we can bring up to standard or as close as possible?

Mr. Adam Dagenhart said, however you feel is best to present that to make it clear.

Mr. John Darden said, when you say the best you can do, potentially you could destroy the whole thing and build it to specifications. So where is that line?

Mr. Michael Bywaletz said, that is a financial line.

Mr. Adam Dagenhart said, again, I will go back to #3, "hardship did not result from actions taken by the applicant". You creating an additional burden does not absolve you of meeting #3. You've been here for several cases; you need to try to mitigate something in between.

Mr. Pavel Shchetinin said, we've already got the road there and it's already paved and has a base. What you're looking to see next time is some sort of compromise from where it is now to the standard. You want us to say this is the topography and this is what I can do from a financial standpoint?

Mr. Michael Bywaletz said, you may have a utility in the way that can't be moved.

Mr. Stephen Wise said, do you have fire lines in this neighborhood?

Mr. Adam Dagenhart said, he has wells. One way to mitigate when you can't meet standards for shoulders is curb and gutter.

Mr. Pavel Shchetinin said, we can't do that. That would be tearing out the whole road.

Mr. Michael Bywaletz said, you would just slap it on the road unless it's flat; then you have another problem.

Mr. Pavel Shchetinin said, it would be helpful to know if we bring something that it's not immediately shut down.

Mr. Adam Dagenhart said, we can't guarantee that because we don't know what we're going to see.

Mr. Brent Rockett said, the only thing we can tell you that we're going to approve is meeting the Ordinance. We're asking you what is the absolute best you can do. What you bring before us may or may not receive 8 out of 9 votes. You have to ask how willing you are to get as close to the Ordinance as possible. If you're giving a reason as to why you can't meet the Ordinance, we need to hear the best case you have. Once you present that, we would have to take a vote based on whatever proposal you can come up with.

Mr. Pavel Shchetinin said, this is when I had hoped we would have the back and forth, based on what we have now and what the standard is. The County standard is eight-inch base, two-and-a-half-inch lift. I can't tear out the entire road; how about I do a four-inch lift?

Ms. Susie Morris said, whatever this board approves becomes part of your granting order. The site plan will be an exhibit and there will be findings of fact. They can't come up with findings of fact based on a conceptual conversation. They have to have something to look at to say yes, it meets or no, it does not meet. If you are not meeting the Ordinance, they have to know why it is not meeting. They have to look at those four things in terms of being able to grant it based on what the state laws say. If you're talking about a medium, you have to have a plan so they can see what is there and what you're proposing. You can also just have them vote on what is already out there. Those are the two choices.

Mr. Pavel Shchetinin said, coming to a concession is out the window. We have to bring something to show to you and based off of that we may have a back and forth? If that is the case, do we have to bring that again in front of the board?

Mr. Brent Rockett said, if you bring the documentation and justification for why that is the best you can do, then the board will vote on that.

Mr. Pavel Shchetinin said, if you guys are okay with whatever we submit next time, then we would update the plan, submit it and not have to come in front of the board again?

Ms. Susie Morris said, you do have to come before the board again because you have to do a major subdivision. They are trying to help you do the in-between step to help you get to the major. You need your engineer to get a plan.

Mr. Michael Bywaletz said, Susie, you're on the right track and he's on the right track. He's going to present a plan next time and we will discuss it. If we need to put conditions on it, the plan will have to get re-drawn one more time to come to you.

Mr. Pavel Shchetinin said, then we don't have to come before the board because we've met all of the conditions.

Mr. Adam Dagenhart said, unless you're telling us he has to come back for a major subdivision. Why are we even here for a variance?

Ms. Susie Morris said, he does. He brought a major plat to this board and we are in the "in-between" phase of going from a minor to a major. He doesn't meet the standards for a major subdivision. He is asking for variances but the plan you have is a major subdivision. That's what's not showing, what is not being met. There has to be an in-between step and an engineer has to be involved to get to that step.

Mr. Pavel Shchetinin said, is there a way to combine everything?

Ms. Susie Morris said, it's a completely separate process.

Mr. Adam Dagenhart said, it would be the same people, but we are a Board of Adjustment when you come before us for a variance. We are a Planning/Zoning Board when you submit the major subdivision.

Mr. Brent Rockett said, a Board of Adjustment is a quasi-judicial scenario. In Cabarrus County, we serve two functions. Before us now is a Board of Adjustment function. When you come back for the other approval, it will be a Planning/Zoning function.

Mr. Douglas Hall, County Attorney, said, when you're before the Board of Adjustment, it's a quasi-judicial hearing. They're not wearing robes and there's more back and forth conversation. You're

basically in court, but you don't typically go into court and negotiate with a judge. When you go to a criminal or civil court, you put your best foot forward and either the judge agrees or does not. That's basically the situation you're in now.

Mr. Pavel Shchetinin said, once the variance has passed or we have come to an agreement, is there other criteria we have to meet to go from the minor to major subdivision?

Ms. Susie Morris said, you have to be in compliance at that point. It's not negotiable.

Mr. Pavel Shchetinin said, once we are in compliance, I'm assuming there are other restrictions?

Ms. Susie Morris said, we need to take one step at a time. Right now, you need to deal with what direction they are giving you. They gave you that direction at the last meeting and are giving you that same direction now. Either you're going to take their direction and do something with it, or they can vote.

Mr. Brent Rockett said, is March 10th feasible?

Mr. Michael Bywaletz said, if you're not ready by then, you can coordinate with staff ahead of time.

Mr. Pavel Shchetinin said, does the road needs to go to the County engineer also?

Ms. Susie Morris said, we can have that conversation after this meeting.

Mr. Brent Rockett said, essentially, you would need to have all information to Staff by February 10th.

Mr. Brent Rocket **MOTIONED, SECOND** by Mr. Stephen Wise to **CONTINUE** until the March 10, 2026 meeting. The vote was unanimous to **CONTINUE**.

LEGAL UPDATE

Mr. Douglas Hall, County Attorney, did not have a legal update at this time.

DIRECTOR'S REPORT

Ms. Susie Morris, Planning and Development Director, did not have a report at this time.

ADJOURN

Mr. Adam Dagenhart **MOTIONED, SECOND** by Ms. Holly Edwards to **ADJOURN**. The vote was unanimous to **ADJOURN** at 8:56 pm.

APPROVED BY: Michael Bywaletz, Chair



SUBMITTED BY: Lisa Johnson, Clerk to the Planning & Zoning Commission



ATTEST BY: Susie Morris, Planning & Development Director


